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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/676,006

10/02/2003

Jorn Borch Soe

14923.0016 C1D1

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27890 7590 03/16/2009  
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EXAMINER

WONG, LESLIE A

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

03/16/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



Art Unit: 1794

The rejection under 35 U.S.C. 112 is withdrawn.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 17, 18, 28, 32, 33, 35-40, 44-48, and 52 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fok et al (US 5451413) for the reasons set forth in rejecting the claims in the last Office action..

Fok et al teach the use of an oxidoreductase to improve dough quality (see entire patent, especially claims 4-7). Fok et al also teach the use of an emulsifying agent (see claim 6).

The claims appear to differ as to the use of an oxidoreductase that is capable of oxidizing maltose.

The ability to oxidize maltose would be inherent and/or obvious to that of Fok et al as the oxidoreductase is used as a dough improver as is claimed.

Art Unit: 1794

Claims 14-16, 19, 29-31, 34, 41-43, 49-51, and 53 rejected under 35 U.S.C. 103(a) as being unpatentable over Fok et al (US 5451413) for the reasons set forth in rejecting the claims in the last Office action.

Fok et al disclose the use of an oxidoreductase to improve dough quality (see entire patent, especially claims 4-7). Fok et al also teach the use of an emulsifying agent (see claim 6).

The claims differ as to the specific type of oxidoreductase and emulsifier.

In the absence of a showing to the contrary the selection of oxidoreductase and emulsifier is seen as no more than a matter of choice and well-within the skill of the art.

It would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to use any oxidoreductase that serves as a dough improver and any dough emulsifier as both the use of oxidoreductases and emulsifiers in the dough art is no more than conventional. Applicant is using known components for their art-recognized function to obtain no more than expected results.

Applicant's arguments filed December 3, 2008 have been fully considered but they are not persuasive.

Applicant argues Fok et al is directed to glucose oxidase.

Fok et al teach the use of an oxidoreductase to improve dough quality (see entire patent, especially claims 4-7). The oxidoreductase of Fok et al is not limited to glucose oxidase.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Wong whose telephone number is (571)272-1411. The examiner can normally be reached on Tuesday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1794

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leslie Wong/  
Primary Examiner, Art Unit 1794

LAW  
March 12, 2009